

October 15, 2003

VIA EMAIL AND EXPRESS MAIL

California Energy Commission
Docket Office
Attn: Docket No. 03-CRS-01
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Re: Southern California Edison Company's Comments On
Proposed Departing Load Cost Responsibility Surcharge Regulations

Dear Docket Clerk:

Southern California Edison Company (SCE) respectfully submits the following comments on the Proposed Departing Load Cost Responsibility Surcharge regulations.

SCE appreciates the California Energy Commission's (CEC's) efforts pulling the various stakeholders together to develop regulations that will form the basis for the various exemptions granted by the California Public Utilities Commission (CPUC) in the Departing Load (DL) Cost Responsibility Surcharge (CRS) Decision (D.03.04.030). In its Decision, the CPUC gave the CEC the responsibility to develop the overall CRS Exemption Process and manage the Statewide Megawatt Cap and queue for DWR Power Charge exemptions.

With that responsibility in mind, the CEC has the obligation to ensure that the CRS Exemption Process is as efficient as possible and integrated with existing, well-established processes to avoid delays and minimize the regulatory burden on customers. In addition, the CEC must ensure the process includes appropriate review criteria to avoid a flood of speculative exemption applications and the creation of unnecessary uncertainty regarding the availability of exemptions under the Megawatt Cap.

SCE encourages careful consideration of our comments. Please do not hesitate to contact me at (916) 441-2369 if you have any questions about this matter.

Sincerely,

Manuel Alvarez

cc: William J. Keese, Chairman
James D. Boyd, Commissioner
John L. Geesman, Commissioner
Robert Pernell, Commissioner
Arthur H. Rosenfeld, Commissioner
Darcie Houck, Staff Counsel
Scott Tomashefsky, Adviser
R.02-01-011 Service List

Enclosure

Southern California Edison Company (SCE) submits the following comments regarding Article 6: Qualified Departing Load CRS Exemptions. In addition to the comments discussed below, SCE recommends several changes to correct formatting and grammatical errors. Please refer to the attached red-line document which incorporates all of SCE's recommendations.

Section 1395 Scope

SCE previously recommended the addition of a sentence to the end of this section to clarify that in the event that any portion of the document is inconsistent with CPUC Decision 03-04-030 (D.03-04-030), the decision shall control. SCE reiterates this recommendation here.

Section 1395.1 Rules of Construction and Definitions

Subsection (b): SCE believes the reference to the Health and Safety Code is incorrect. The reference to Section 404005 should be changed to Section 40405.

Subsection (k): SCE recommends that departing load be replaced with customer generation to reflect Subsection (l).

Subsections (q) and (r): SCE recommends that these subsections be reordered. "Full CRS Exemption" should be changed to subsection (q) and "IEPR" should be changed to subsection (r) to remain consistent with the ordering methodology throughout this section.

Subsection (u): SCE recommends the reference to Section 1395.2(c)(4) should be corrected Section 1395.3.

Section 1395.3 Process for Assessing Eligibility for CRS Exemptions, and Reporting Requirements

Subsection (a): SCE recommends that the timing for the submittal of the CRS Exemption Form be synchronized with the Rule 21 Interconnection Process and be submitted concurrently with the Rule 21 Application for Interconnection. SCE believes submitting the two applications concurrently will enable Customers (applicants) and the utilities to take advantage of an existing, well-established process, making the process as efficient as possible and will help avoid processing delays. In addition, and perhaps more importantly, SCE believes that requiring the CRS Exemption Form to be submitted at the time of interconnection application will reduce the number of speculative projects because it will require that projects are fully defined and that Rule 21 application fees are paid to the utilities. SCE believes that an exemption application process that is free of charge and without a specific time schedule will encourage speculative applications to be filed in attempt to secure space in the queue. This will likely create uncertainty for Customers (applicants) when the queue becomes bogged down with these speculative applications and a significant administrative burden for the CEC and the utilities to manage. SCE believes that submittal of CRS Exemption Form at the time of interconnection application is fair to all parties and will create a more efficient and effective process.

Subsection (b)(1)(A): SCE reiterates its recommendation that the time be changed from 10 calendar days to 10 business days.

Subsection (b)(1)(B): SCE reiterates its recommendation that the time be changed from 10 calendar days to 15 business days.

Subsection (b)(2): SCE recommends that the word “Automatically” be changed to “Provisionally.” SCE believes the Program Administrators for the CPUC’s Self-Generation Incentive Program and the Commission’s Renewable Energy Program should make the final determination regarding eligibility. In SCE’s and San Diego Gas & Electric Company’s service territories, there are three SGIP Program Administrators, two of which are not within the utility that is responsible for the Rule 21 Interconnection Process. In these cases, if the interconnecting utility is also required to perform a review, existing reviews will be duplicated, there could be conflicts between the reviews, and will create uncertainty for customers (applicants).

Subsection (b)(3): SCE recommends that the time be changed from 10 calendar days to 10 business days and the word automatically be replaced by provisionally.

Subsection (c)(4): SCE recommends that the reference to subsection (c) be changed to subsection (d).

Subsection (d)(1): SCE recommends that the description of Ultra Clean and Low Emissions category be consistent and match the definition of the Ultra Clean and Low Emissions customer generation in the Public Utilities Code Section 353.2.

Section 1395.4 CRS Exemption Queue and Procedures for Updating the Queue

Subsection (c)(1)(A): SCE recommends that the time be changed from 10 calendar days to 10 business days.

Subsection (d)(1): SCE recommends that “or if the Customer ceases to meet the requirements for CRS Exemption eligibility” be added to the end of the subsection.

EXPRESS TERMS
Chapter 3 Data Collection
Article 6 Qualified Departing Load CRS Exemptions

Section 1395 **Scope**

The regulations in this Article implement the California Energy Commission (Commission) role in providing assessments and forecast of energy related matters within the state. The regulations set forth the mechanism and process for reporting of information by customer generators requesting Cost Responsibility Surcharge (CRS) exemptions. The regulations set forth the mechanism and process for the Commission to assess and track CRS eligibility of Departing Load customers. The information obtained under these regulations will be incorporated into the Integrated Energy Policy Report (IEPR) in order to assess and forecast the impacts of CRS and CRS exemptions on the deployment of distributed generation.

NOTE: Authority cited: Sections 25213, and 2518(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301, and 25320, Public Resources Code.

Section 1395.1 **Rules of Construction and Definitions**

The rules of construction and definitions in Section 1302 of Article 1 of this Chapter, and the definitions set forth in this Section, apply to this Article.

(a) “Backup Generation” means electricity generated by a Customer on a temporary basis in order to replace the generation lost from that Customer’s normal supply source, usually the Electric Utility where the customer resides.

(b) “Best Available Control Technology” or “BACT” means the maximum degree of emissions reduction achievable after taking into account energy, economic, and environmental impacts, as set forth in Health and Safety Code Section 404095. The local air district where the generation is located usually makes the BACT determination.

(c) “Bond Charge” means the California Department of Water Resources (CDWR) Power Supply Revenue Bonds, Series 2002A-2002E, issued by the State of California on October 23, 2002, and November 7, 2002. The Bonds were issued for the purpose of repaying the State’s General Fund for procuring electricity on behalf of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company from January 17, 2001 to December 31, 2002.

(d) “CARB” means the California Air Resources Board.

(e) “CPUC” means the California Public Utilities Commission.

(f) “Cogeneration” means the sequential use of energy for the production of electrical and useful thermal energy, as set forth in Public Utilities Code section 218.5.

(g) “Cost Responsibility Surcharge” or “CRS” means energy cost obligations consistent with CPUC Decision 03-04-030. CRS-related costs are recoverable from eligible customers on a cents-per-kilowatt-hour basis and include the following components:

(1) Costs associated with Southern California Edison Company’s Historical Procurement Charge;

(2) Costs associated with the procurement of power by the CDWR for purchases made between January 17, 2001 and December 31, 2002;

(3) Costs associated with the power contracts entered into by the CDWR on behalf of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company for procurement beginning January 1, 2003; and

(4) Cost associated with the Tail Competition Transition Charge, as defined in Public Utilities Code section 367(a).

(h) “CRS Exemption” means the avoidance of the payment of one or more of the CRS components, as defined in subsection (g) of this section, if a customer is eligible.

(i) “CRS Exemption Queue” or “Queue” means the list of CRS Exemption requests either placed or pending placement in order of receipt, for approval of a CRS Exemption within the appropriate megawatt cap.

(j) “Commission” means the California Energy Resources Conservation and Development Commission.

(k) “Customer” means a present or past electric utility customer that has or ~~will will have departing load served from a non utility source~~ receive electric power from (ie departing load customer generation), ~~and who~~ is seeking a CRS exemption or placement in the queue to receive a future CRS exemption.

(l) “Customer Generation” ~~or “Departing Load”~~ means any type of generation that (1) is dedicated wholly or in part to serve a specific customer’s load; and (2) ~~does not rely~~ does not rely on ~~non-utility or dedicated the utility distribution wires rather than the~~ utility grid, to serve the customer, the customer’s affiliates and/or tenant’s, and not more than two other persons or corporations. Those two persons or corporations must be located on site or adjacent to the real property on which the generator is located. ~~Departing Load or Customer Generation does not apply to changes in the distribution of load among accounts as a customer site with multiple accounts, load resulting from the reconfiguration of distribution on the customer side of the site, provided that the customer changes do not result in a discontinuance or reduction of service from the Electric Utility at that location. It also does not apply to Departing Load or Customer Generation that physically disconnects from the grid.~~

(m) “Departing Load” means portions of the utility customer’s electric load for which the customer: discontinues or reduces its purchase of bundled or direct access service from the utility; purchases or consumes electricity supplied and delivered by “Customer

Generation” to replace the utility or Direct Access (DA) purchases; and remains physically located at the same location or elsewhere within the utility’s service territory as of April 3, 2003. Reduction in load qualifies as departing load only to the extent that such load is subsequently served with electricity from a source other than a utility. This definition of departing load does not include the following:

(1) Changes in usage occurring in the normal course of business resulting from changes in business cycles, termination of operations, departure from the utility service territory, weather, reduced production, modifications to production equipment or operations, changes in production or manufacturing processes, fuel switching, enhancement or increased efficiency of equipment or performance of existing Customer Generation equipment, replacement of similar size, installation of demand-side management equipment or facilities, energy conservation efforts, or other similar factors.

(2) New customer load or incremental load of an existing customer where the load is being met through a direct transaction with Customer Generation and the transaction does not otherwise require the use of transmission or distribution facilities owned by the utility.

(3) Load temporarily taking service from a back-up generation unit during emergency conditions called by the utility, the California Independent System Operator, or any successor system operator.

(4) Load served by municipally-owned utilities or irrigation districts, except as otherwise determined by the CPUC.

(5) Changes in the distribution of load among accounts as a customer site with multiple accounts, load resulting from the reconfiguration of distribution on the customer side of the site, provided that the customer changes do not result in a discontinuance or reduction of service from the Electric Utility at that location.

(6) Load that physically disconnects from the grid.
This definition is intended to be consistent with CPUC utility tariffs.

(~~nn~~) “Departing Load CRS Information Form” or “Form” means the document containing pertinent information from the Customer necessary for the Commission to determine whether or not a Customer is eligible for a CRS Exemption.

(~~oo~~) “Development Plan” or “Plan” means a detailed schedule for anticipated construction and interconnection activities. The Plan shall include a list of all permits and approvals that the Customer will need to obtain before interconnection will occur, and the anticipated time it will take for the Customer to obtain each of the permits and approvals.

(~~pp~~) “Electric Utility” means an investor owned utility. In this case, Electric Utility refers to Pacific Gas and Electric Company, Southern California Edison, or San Diego Gas and Electric, depending on the service territory where the Customer Generation is located.

(~~qq~~) ~~“IEPR” means the Commission’s Integrated Energy Policy Report.~~

(~~rr~~) “Full CRS Exemption” means that a Customer is exempt from paying surcharges associated with the CRS defined in subsection (g) of this section.

(r) “IEPR” means the Commission’s Integrated Energy Policy Report.

~~(#s)~~ “Megawatt Cap” means the total amount of generating capacity, expressed in megawatts, eligible for a CRS Exemption, consistent with the Cap levels determined by the CPUC.

~~(st)~~ “Net Energy Metering” shall have the same definition as set forth in Public Utilities Code section 2827(b)(3).

~~(tu)~~ “Partial CRS Exemption” means that a Customer is exempt from paying certain components of the CRS as defined in subsection (g) of this section, but do not qualify for a full CRS Exemption. The extent that a customer may be eligible for an exemption is based on the criteria set forth in Section 1395.~~2(e)(4)~~3 of this Article.

~~(uv)~~ “Ultra Clean and Low-emissions” shall have the same definition as set forth in Public Utilities Code 353.2.

NOTE: Authority cited: Sections 25213, and 2518(e), Public Resources Code.
Reference: Sections 25216, 25216.5, 25301, and 25320, Public Resources Code.

Section 1395.2 Departing Load CRS Information Form or Form

(a)(1) The Commission shall prepare, and make available to Customers, in conjunction with each Electric Utility a Departing Load CRS Information Form (or Form). The Form shall provide information necessary to assess eligibility for a CRS exemption.

(2) The Form shall include, but not be limited to, the following information:

(A) Customer name;

(B) Contact information, such as phone number and email address;

(C) Address (including street number, street name, city, and zip code);

(D) Capacity of customer generation unit;

(E) Type of technology;

(F) Anticipated interconnection date; and

(G) Proposed project Development Plan and any anticipated activities that may delay the project beyond 12 months from submission of the Customer’s application.

(b) Each Electric Utility may develop forms that substantially meet the criteria set forth in section (a)(2) of this section, and make such forms available to customers within its service territory for purposes of providing the information necessary to include a Customer in the CRS Exemption Queue. The Commission shall approve any Electric Utility forms and modifications to such forms at least 30 days prior to any formal use of the forms by the Electric Utility.

NOTE: Authority cited: Sections 25213, and 2518(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301, and 25320, Public Resources Code

Section 1395.3 Process for Assessing Eligibility for CRS Exemptions, and Reporting Requirements

(a) ~~At the time the Customer submits its application for Rule 21 Interconnection, the~~ The Customer shall also submit a Form to the Electric Utility and the Commission for CRS Exemptions.

(b) The Electric Utility shall:

(1) Conduct an initial review and determine whether the Form is complete.

(A) If the Form is incomplete, the Electric Utility shall notify the Customer within 10 ~~calendar-business~~ days upon receipt of the Form that additional information is needed to process the request for a CRS Exemption. The notification shall indicate which portion(s) of the Form require supplemental information.

(B) If the Form is complete, then the Electric Utility shall within ~~10-15~~ business~~calendar~~ days upon receipt of the Form:

(i) Provisionally categorize each project;

(ii) Identify the conditions that must be met to receive final project categorization;

and

(iii) Transmit completed Form with provisional project categorization to the Commission, with a copy to the Customer serving as official notification.

(2) ~~Automatically-Provisionally~~ approve Full CRS Exemptions, if the Customer is:

(A) Eligible for funding under the CPUC's Self Generation Incentive Program up to 1 megawatt;

(B) Eligible for funding under the Commission's Renewable Energy Program up to 1 megawatt; or

(C) A Net Energy Metering Customer.

(3) Send the Commission and the Customer confirmation in writing of the Full CRS Exemption approval within 10 ~~calendar-business~~ days from issuance of the ~~automatic provisional determination~~exemption. The Commission shall incorporate the CRS Exemption into the queuing process for purposes of tracking the appropriate megawatt cap.

(c) Upon receipt of a completed Form with provisional project categorization from the Electric Utility, the Commission shall:

(1) Review the completed Form and assess whether the Customer is eligible for a CRS Exemption and if there is space available under the appropriate megawatt cap.

(2) Make the initial assessment of eligibility based on the information provided. This initial assessment shall be designated to the appropriate Commission Committee assigned to matters concerning distributed generation or departing load.

(3) Not include in the queue any CRS Exemption request that is considered Backup Generation or diesel-fired customer generation, as these forms of generation do not qualify for a CRS Exemption.

(4) Not include in the queue a CRS Exemption request if the Customer does not meet the criteria outlined in section ~~(ed)(3)~~ of this section. If the Commission does not include a CRS Exemption request in the queue it shall provide written notification to the customer and the Electric Utility within 10 calendar days of rejecting the requests.

~~(35)~~ Place all qualifying customers within the queue. Customers that qualify for an exemption are those placed in the queue within the appropriate megawatt cap as determined by the CPUC.

(d) The Commission shall place all Customers in the queue based on date of Form submittal and technology categorization. The Commission shall assess whether a Partial CRS Exemption for each Customer submitting a Form should be ~~in~~ included in the queue based on either the nameplate rating or estimated annual load departing. The amount of departing load and categorization will be utilized in maintaining an accurate account of available megawatts in the queue. The categorization of technology type is as follows:

(1) Ultra Clean and Low-Emissions and Over One megawatt. In order to be classified in this category:

(A) The generating equipment must commence initial operation between January 1, 2003, and December 31, 2005.

(B) The generating equipment must ~~be equal to produce~~ zero emissions during its operation or produce emissions during its operation that are equal to or less than the 2007 State Air Resources Board Emissions Limit for Distributed Generation.

(~~B~~C) Combustion-based generating equipment must operate in a combined heat and power application with at least 60 percent system efficiency on a higher heating value.

(2) Other Customer generation not qualifying under (d)(1) of this section, subject to meeting air district BACT standards and the following megawatt caps:

(A) 600 megawatts by the end of 2004, of which 10 megawatts are reserved for University of California or the California State University System;

(B) 500 additional megawatts by the end of 2008, of which 80 megawatts are reserved for University of California or the California State University System; and

(C) 400 additional megawatts thereafter, of which 75 megawatts are reserved for University of California or the California State University.

NOTE: Authority cited: Sections 25213, and 2518(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301, and 25320, Public Resources Code

Section 1395.4 CRS Exemption Queue and Procedures for Updating the Queue

(a) A CRS Exemption Queue (or Queue) shall be established by the Commission and be based on a first-come, first-served basis, utilizing the criteria outlined in Section 1395.2. Forms shall be date-stamped upon receipt by the Commission.

(b) The Commission shall maintain the Queue in electronic format with aggregated totals posted on the Commission website. They will list general information about each request including the size of the exemption, technology type and general location. ~~The i~~ Identification and specific location of a customer applying for exemption shall be deemed confidential.

(c) The Commission shall track all Forms and assess Customer eligibility for a CRS Exemption. Once eligibility is established, the Commission shall place the Customer request in the CRS Exemption Queue, subject to the applicable megawatt cap.

(1) If the Customer request falls within the megawatt cap:

(A) The Commission will notify the Electric Utility and the Customer within 10 ~~calendar business~~ days of placing the Customer in the queue.

(B) The Commission will notify the Customer of rank within the Queue and whether the Customer will receive a Partial CRS Exemption.

(C) The Customer will have 12 months from the date of placement in the Queue to interconnect with the grid. If the customer does not believe it will be able to connect

within the 12-month timeframe, then it must submit a development plan to the Commission in order to demonstrate that the Customer is actively progressing in the permitting and/or construction of the project. The Commission may request additional information after the initial 12-month period to ensure continuing active progress by the Customer in conformance with the Development Plan.

(2) If the Customer request does not fall within the megawatt cap, the Commission will:

(A) Notify the Electric Utility and Customer that the request does not fall within the megawatt cap; and

(B) Place the Customer request ~~on~~in the Queue ranked in order of receipt.

(d) The Commission will update the Queue weekly in order to ensure timely and efficient Customer access to CRS Exemption information. In doing so the Commission shall:

(1) Remove CRS Exemption requests if a Customer does not commence operation within 12 months from the date a CRS Exemption request is placed in the Queue, or if the Customer does not demonstrate sufficient compliance with a Development Plan submitted to the Commission at the time the exemption is listed in the Queue, or if the Customer ceases to meet the requirements for CRS Exemption eligibility.

(2) Incorporate any changes to the megawatt cap as deemed appropriate.

(e) The Electric Utility shall notify the Commission when an eligible Customer commences operation of its generating facilities.

(f) The Commission shall develop a monitoring process in order to ensure that information provided in the Queue can help accurately assess the amount and type of Customer Generation being deployed in the Electric Utility service territories. The Commission will develop monitoring procedures to ensure customer generation continues to meet the requirements for exemption once listed in the Queue, and to ensure that the utilities are complying with provisions of these regulations in a timely manner.

NOTE: Authority cited: Sections 25213, and 2518(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301, and 25320, Public Resources Code

Section 1395.5 Extension Requests, Other Substantive Changes, and Requests to Evaluate Additional Information

(a) Substantive changes~~;~~ require prior notice to the appropriate Commission Committee and can be considered if requested in writing. Each request must describe the need for the change or extension of time, and must document the following:

(1) Circumstances beyond the control of the Customer that prevent the system from commencing operation as described in the Form.

(2) The Customer had no knowledge or reason to know that the commencement of operation would not occur until after the requested date stated in the Form.

(3) There are no other known obstacles in the way of completing the project within the requested extension period.

(b) Any request for extension of time must be based on good cause and demonstrate circumstances beyond the control of the Customer, unless the Customer provided a Development Plan to the Commission at the time the Departing Load was listed in the Queue.

(c) Customers that disagree with the Commission's assessment of categorization may request a re-evaluation of the information provided in the Form, or submit additional information to supplement or clarify information provided in the Form for purposes of requesting a re-categorization of the Customer's placement in the Queue.

(d) Any request for extension of time or re-evaluation of categorization must be filed at least 30 days prior to the expiration of the Customer's place in the Queue, or 30 days from notification of the customer's categorization within the Queue.

(e) The Commission shall notify the Customer of its final assessment in writing within 30 days from the receipt of the request for an extension of time or re-categorization. The Customer will not be removed from the Queue until a final assessment by the Commission has been made pursuant to this section.

NOTE: Authority cited: Sections 25213, and 2518(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301, and 25320, Public Resources Code

Section 1395.6 Incorporation of Information and Impacts of CRS and CRS Exemptions into IEPR

(a) The Commission shall utilize information received by Customers, the Electric Utilities, and the Queue to assess impacts of CRS on deployment of customer generation, grid reliability, air quality, and the environment.

(b) The assessments and forecasts made pursuant to subsection (a) of this section shall be incorporated into the Commission's IEPR along with any recommendations as to the benefits or determinants of CRS and CRS Exemptions to statewide energy resource planning, including progress or implementation of the Distributed Generation Strategic Plan adopted by the Commission in June 2002.

NOTE: Authority cited: Sections 25213, and 2518(e), Public Resources Code. Reference: Sections 25216, 25216.5, 25301, and 25320, Public Resources Code